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Cung Ngoc Phan

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EXAMINER

ROSEN, NICHOLAS D

ART UNIT

PAPER NUMBER

3625

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/736,554	<b>Applicant(s)</b> PHAN, CUNG NGOC	
	<b>Examiner</b> Nicholas D. Rosen	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,6,11,12 and 14-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,11,12 and 14-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claims 1-2, 6, 11-12, and 14-24 have been examined.

#### ***Claim Objections***

Claims 1, 2, 11, 12, 15-19, 22, and 23 are objected to because of the following informalities: In the twenty-seventh line of claim 1, "requested inventor data" should be "requested inventory data". Appropriate correction is required.

Claim 20 is objected to because of the following informalities: In the second line of claim 20, "the inventor data" should be "the inventory data". Appropriate correction is required.

Claim 21 is objected to because of the following informalities: In the third line of claim 21, "current inventor data" should be "current inventory data". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. "Retrieving current inventor[y] data if the in-store system that corresponds to the merchant can not be reached," critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the

disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). The instant application discloses retrieving inventory data from the host system database when the in-store system cannot be reached (bottom paragraph on page 8 of the specification), but this inventory data is not guaranteed to be current, making the enablement of claim 21 questionable; furthermore, if inventory data is retrieved from the host system database, then this is a substitute for retrieving current inventory data from the in-store system, so retrieving current inventory data from the in-store system cannot comprise retrieving inventory data from the host system database.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 11, 12, 15, 16, 17, 18, 19, 22, and 23 are under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 23 and 24, it is recited that there is a virtual store server useable to request the host system for inventory data indicative of a given merchant. This is ambiguous, because it could be interpreted as reciting a virtual store server used for this purpose, combined with a host system which actually retrieves inventory data, or merely a virtual store server which could be used to request such inventory from the host server, regardless of whether the host system is actually set up to respond.

Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. If inventory data is retrieved from the host system database,

then this is a substitute for retrieving current inventory data from the in-store system, so retrieving current inventory data from the in-store system cannot comprise retrieving inventory data from the host system database. Thus, it is unclear what the subject matter of claim 21 can be.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6, 14, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the anonymous article, "ArsDigita Powers Nation's Leading Wine Exchange: WineAccess.com," hereinafter "ArsDigita," in view of Ranganath et al. (U.S. Patent Application Publication 2001/0037245), Walker et al. (U.S. Patent Application Publication 2006/0195368), and the Microsoft Press Computer Dictionary. As per claim 6, "ArsDigita" discloses a method for processing and distributing inventory data through a communication network, comprising: receiving inventory data from an in-store system over the communication network paragraphs beginning, "ArsDigita Corporation, the worldwide leader," "WineAccess.com supports," and "From a seller's Web site," and also the paragraphs beginning, "Store Finder:" and "Transaction:"). "ArsDigita" does not expressly disclose receiving merchant identification data and merchant network address data, but Ranganath teaches merchants having memory databases, merchant

identifiers, and inventory data, by which an application server can interact with the merchant shop server (paragraphs 26, 27, 33, 34, and 58); also, “ArsDigita” discloses customers determining what wines are currently in stock at a particular wine shop (paragraph beginning, “From a seller’s Web site”). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention to receive merchant identification data and merchant network address data, for the obvious advantage of knowing at which merchant particular inventory is located (as per “ArsDigita”), and transmitting information to the merchants at their network addresses (as per Ranganath).

Neither “ArsDigita” nor Ranganath discloses indexing and storing the inventory data, merchant identification data, and merchant network address data in a host system database, but it is well known for databases to index data, as taught by the Microsoft Press Computer Dictionary (page 247, definitions of “index,” and definition of “indexed search”). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention to index the various stored data, for the obvious advantage, as taught by the Microsoft Press Computer Dictionary, of readily and quickly searching the database for needed and relevant data.

“ArsDigita” does not disclose retrieving current inventory data from the in-store system using the indexed and stored merchant network address to initiate communication with the in-store system, but Ranganath teaches using a merchant network address to initiate communication with an in-store system (paragraphs 26, 27, 33, 34, and 58), and Walker teaches retrieving current inventory data from in-store

systems in response to a request for current inventory data from a subscriber system for a particular merchant (Figures 1 and 8A; paragraphs 99 and 131). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to retrieve inventory data from the in-store system in response to receiving such a request, for the obvious advantage, as in both "ArsDigita" and Walker, of aiding consumers in determining what items are currently in stock at which merchants, and for the obvious advantage of transmitting inquiries to the proper addresses, as per Ranganath and Walker.

Walker discloses that the customer may browse the virtual inventory (paragraph 132), implying formulating a response to the subscriber system using the current inventory data, making this likewise obvious, again for the advantage of aiding consumers in determining what items are currently in stock at which merchants.

As per claim 14, "ArsDigita" discloses that the host matches the consumer with a local retailer screened for wine knowledge, customer service, and selection (paragraph beginning "Store Finder:"); implying that the host possesses selection information, such as the inventory information updated from the store's in-store POS system (paragraph beginning "WineAccess.com supports"); furthermore, if the store Web sites which WineAccess.com custom builds are accessed through the host site of WineAccess.com, inventory and other data are forwarded to the subscriber system at once or later from the host system. Also, Walker teaches enabling customers to browse the inventory provided by the central controller (paragraph 132), implying forwarding the inventory data to the user's subscriber system. Hence, it would have been obvious to one of

ordinary skill in the art of electronic commerce at the time of applicant's invention to send inventory data from the in-store systems to the host system, the host system either forwarding the inventory data to the subscriber system or storing the inventory data in the host system for later access by the subscriber system.

As per claim 20, it is obvious, as set forth above with regard to claim 14, for the inventory data to be either forwarded to the subscriber system or stored in the host system database for later access by the subscriber system. "ArsDigita" does not disclose that the inventory data is received periodically from the in-store systems, but Ranganath teaches periodically monitoring a point of sale device to report the status of the shop to a consumer (paragraph 29). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to receive the inventory data periodically from the in-store systems, for the implied and obvious advantage of assuring that the data reported to customers will not be too far out of date.

(In view of the indefinite character of claim 21, it was judged impossible to apply art to determine whether it would have been obvious or not.)

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. Patent Application Publication 2006/0195368) in view of Ranganath et al. (U.S. Patent Application Publication 2001/0037245), the Microsoft Press Computer Dictionary, and official notice. Walker discloses a method for processing and distributing real-time inventory data through a communication network, comprising the



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steps of: retrieving current inventory from an in-store system by initiating communication with at least one in-store system in response to receiving a request for current inventory data from a subscriber system for a merchant if the in-store system that corresponds to the merchant can be reached (Figures 1 and 8A; paragraphs 99 and 131); and formulating a response to the subscriber system using the current inventory data from the in-store system if the in-store system can be reached (*ibid.*, and paragraph 132, the formulating being inherent from the ability of the customer to browse the data). Walker does not expressly disclose that the current inventory data is retrieved using the merchant network address to initiate communication, nor does Walker expressly disclose receiving merchant identification data and merchant network address data from an in-store system over the communication network, and storing merchant identification data and merchant network address data in a host system database, but Ranganath teaches an application server communicating with a particular merchant system by using the retailer identification, requiring that merchant identifiers and electronic addresses be stored (paragraphs 27 and 58). Ranganath does not expressly disclose indexing these data, but it is well known for databases to index data, as taught by the Microsoft Press Computer Dictionary (page 247, definitions of “index,” and definition of “indexed search”). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant’s invention to receive and store the merchant identification data and the merchant network address, for the obvious advantage, as in Walker and Ranganath, of placing orders with merchants; and to index the various stored data, for the obvious advantage, as taught by the Microsoft Press

Computer Dictionary, of readily and quickly searching the database for needed and relevant data.

Walker does not disclose periodically receiving inventory data from the in-store system over the communication network for storage in the host system database with the merchant identification data and the merchant network address, but Ranganath teaches periodically monitoring an in-store system over the communication network (paragraph 29), with the implication of receiving the inventory data taught as being stored (paragraphs 33 and 34; Figure 1), and teaches using a retailer identification to communicate with the retailer (paragraphs 26, 27, 58). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to periodically receive inventory data from the in-store system over the communication network for storage in the host system database with the merchant identification data and the merchant network address, for the obvious advantage of having the various kinds of data conveniently available and linked, and the stated advantage of reporting on the status of the merchant's shop to the consumer.

Walker does not disclose retrieving inventory data stored in the host system database in response to receiving a request for current inventory data from the subscriber system for a merchant if the in-store system that corresponds to the merchant can not be reached, and formulating a response using the inventory data stored in the host system database if the in-store system that corresponds to the merchant can not be reached, but official notice is taken that it is well known to retrieve data from storage, and formulate a response using the stored data if a site of updated

data cannot be reached (e.g., if a website is cannot be reached over the Internet at present, one may be permitted to view a cached version). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to retrieve the stored inventory data, and formulate a response using the stored inventory data, for the obvious advantage of providing the most recent available, even if not quite current, inventory data, as a basis for attempted purchases or other use.

***Allowable Subject Matter***

Claims 1, 2, 11, 12, 15, 16, 17, 18, 19, 22, and 23 would be allowed upon amendment to particularly recite the basis for potential patentability, and to overcome the objection made for a minor informality in claim 1.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, "ArsDigita Powers Nation's Leading Wine Exchange: WineAccess.com," hereinafter "ArsDigita," discloses a computer implemented system for distributing inventory data acquired from point-of-sale systems at any one of a plurality of retail systems, comprising: a plurality of in-store systems, each in-store system located at a place of business of a merchant and comprising at least one point-of-sale device used to process sales transactions for generating sales transaction data and generating inventory data (paragraph beginning, "WineAccess.com supports a national community"); likewise, the disclosure of access to data through a Website requires an in-store communicator used to transmit at least the inventory data

over a communication network. “ArsDigita” does not disclose a memory database used to store a merchant identifier, the sales transaction data, and the inventory data, but Ranganath et al. (U.S. Patent Application Publication 2001/0037245) teaches merchants having memory databases, merchant identifiers, and inventory data, by which an application server can interact with the merchant shop server (paragraphs 26, 27, 33, 34, and 58); also, “ArsDigita” discloses customers determining what wines are currently in stock at a particular wine shop (paragraph beginning, “From a seller’s Web site”).

“ArsDigita” discloses a host system operably coupled to the in-store systems over the communication network and comprising: a host system database; a host system communicator used to receive and transmit data; and a data distributor for processing requests for inventory data by accessing inventory data stored in the host system database or retrieving current inventory data from one of the in-store systems (paragraphs beginning, “ArsDigita Corporation, the worldwide leader,” “WineAccess.com supports,” and “From a seller’s Web site,” and also the paragraphs beginning, “Store Finder:” and “Transaction:”). “ArsDigita” does not expressly disclose that the host system database indexes and stores the inventory data, the merchant identifier and the merchant network address for each in-store system (although the “database of over 250,000 wines,” and the maintaining of inventories of wines available at particular stores, require storing inventory data), but Ranganath teaches an application server communicating with a particular merchant system by using the retailer identification, requiring that merchant identifiers and electronic addresses be

stored (paragraphs 27 and 58). Ranganath does not expressly disclose indexing these data, but it is well known for databases to index data, as taught by the Microsoft Press Computer Dictionary (page 247, definitions of “index,” and definition of “indexed search”).

“ArsDigita” discloses at least a subscriber system operably coupled to the host system over the communication network, as inherently required to access the Web site; “ArsDigita” does not expressly disclose a browser component useable by a consumer to view the requested inventory data from the host system by accessing the requested inventory data on a web page generated by the data distributor, but “ArsDigita” discloses generating web sites (paragraph beginning, “WineAccess.com supports”), and the Microsoft Press Computer Dictionary teaches that Web browsers are well known (definition of “Web browser,” page 505).

“ArsDigita” does not disclose a virtual store server useable to request the host system for inventory data indicative of a given merchant and to process sales of goods or services offered for sale by the given merchant, although it is well known and admitted prior art for virtual store servers to be useable process sales of goods or services offered for sale by merchants (the instant specification, page 9, second paragraph). Virtual store servers are also taught by, for example, the anonymous article, “An Informational Release Regarding CyberMall Inc., Progress on its Interactive Virtual Mall and Search Engine Projects.” Walker et al. (U.S. Patent Application Publication 2006/0195368) discloses retrieving current inventory data from in-store systems in response to a request for current inventory data from a subscriber system for

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a particular merchant (Figures 1 and 8A; paragraphs 99 and 131), but this is requesting inventory data from the merchant, not from a host system coupled to the merchants' in-store systems. Neither "ArsDigita," Walker, nor any other prior art of record discloses or reasonably suggests a virtual store server that is used to request the host system for inventory data indicative of a given merchant, and there is no obvious motivation to combine the various prior art teachings to arrive at this.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walker et al. (U.S. Patent 7,039,603) disclose settlement systems and methods wherein a buyer takes possession at a retailer of a product purchased using a communication network. Walker et al. (U.S. Patent Application Publication 2007/0112633) disclose a method and apparatus for facilitating the sale of subscriptions to periodicals.

The anonymous article, "An Informational Release Regarding CyberMall Inc., Progress on its Interactive Virtual Mall and Search Engine Projects," discloses a cybermall with inventory databases.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith, can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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/Nicholas D. Rosen/  
Primary Examiner, Art Unit 3625  
June 18, 2008